



DEPARTMENT OF THE NAVY  
BASE REALIGNMENT AND CLOSURE  
PROGRAM MANAGEMENT OFFICE WEST  
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SAN DIEGO, CA 92147

5720  
Ser BPMOW.rdc/007  
January 10, 2020

Mr. Jeff Ruch  
Executive Director  
Public Employees for Environmental Responsibility  
962 Wayne Avenue, Suite 610  
Silver Spring, MD 20910

Dear Mr. Ruch:

This letter responds to your Freedom of Information Act (FOIA) request of November 1, 2018 in which you seek the following:

- 1) Documents describing Tetra Tech involvement in radiological assessment/remediation of areas of Treasure Island;
- 2) Documents and communications related to the sufficiency of prior radiological assessment and remediation work performed by any Tetra Tech entity, including Tetra Tech EC, at Treasure Island;
- 3) All documents and communications assessing the potential for fraudulent radiological cleanup work to have been conducted at Treasure Island by Tetra Tech or other contractors and the Navy's investigation of that potential;
- 4) Documents and communications supporting any decision not to review the prior Tetra Tech radiological work at Treasure Island;
- 5) All documents and communications among BRAC personnel and between BRAC and RASO (Navy Radiological Affairs Support Office) regarding whether Tetra Tech workers involved in fraudulent radiological work at Hunter's Point Naval Shipyard had performed radiological work at Treasure Island; and
- 6) Documents relied upon or supporting, the statement by BRAC Program Director Laura Duchnak at the May 14, 2018 hearing on Hunter's Point before the San Francisco Board of Supervisors that the Navy has no information that any Tetra Tech workers involved in the fraud at Hunter's Point conducted radiological work at Treasure Island.

Your request was received by this office on November 19, 2018 and assigned file number DON-Navy-2019-002006. Responsive records were provided to you on March 28, April 9, May 15, June 26, September 10 and November 7, 2019. This letter is our final response to your request.

During our search, we examined the files maintained by our office and NAVFAC Administrative Record as responsive to your request. Twenty nine (29) records were located that are exempt in their entirety from disclosure under Exemption 5 of the FOIA (5 U.S.C. § 552(b)(5)) which protects "inter-agency or intra-agency memorandums or letters which would

not be available by law to a party in litigation with the agency". Twenty seven (27) of withheld records are intra-agency records that reflect the Navy's internal decision-making process, and two (2) of the records are protected under attorney-client privilege. Of the twenty nine (29) records withheld under Exemption 5, two (2) records would also be partially exempt under Exemption 6 of the FOIA (5 U.S.C. § 552(b)(6)) which protects information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." Portions of these two records contain private personal information that there is no public interest in disclosing via this FOIA.

Three (3) records were located that are exempt in their entirety from disclosure under Exemption 3 of the FOIA (5 U.S.C. § 552(b)(3)) which covers information "specifically exempted from disclosure by statute"; Exemption 4 of the FOIA (5 U.S.C. § 552(b)(4)) which protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential", and Exemption 5 of the FOIA (5 U.S.C. § 552(b)(5)) which protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party ... in litigation with the agency". The withheld records are Source Selection Sensitive contractor evaluations that are withheld in compliance with Federal Acquisition Regulation 42.1503(d) and 41 USC §2102 "Prohibitions on disclosing and obtaining procurement information". Disclosure of this information could cause harm both to the commercial interest of the Government and the competitive position of the contractor. The records are also intra-agency records that reflect the Navy's internal decision-making process.

Our search for records in response to Item 6 in your request did not yield any results. The transcript of the May 14, 2018 shows that Ms. Duchnak did not make the statement indicated, and therefore there are no documents relied upon or supporting that statement.

In view of the above, you may consider this to be an adverse determination that may be appealed. Since you have created an account in FOIA Online, you may submit an appeal directly within the web-based system. To do this, you would log in to your account, retrieve your original request, and then click on the "Create Appeal" tab in the left-hand column. The basic information from your request will be duplicated for you, and then you can type in the basis of your appeal. If you prefer to use regular mail, you may submit an appeal to:

The Department of the Navy  
Office of the General Counsel (ATTN: FOIA APPEALS)  
1000 Navy Pentagon, Room 5A532  
Washington, DC 20350-1000

Your appeal, if any, must be transmitted (if appealing by FOIA Online) or postmarked (if appealing by mail) within 90 calendar days from the date of this letter. Please be advised that a FOIA requestor has the burden of proving timely submission of an appeal. Additionally, you

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must include in your appeal a statement indicating why you believe your appeal should be granted, and you are encouraged to also include a copy of your initial request and a copy of this letter.

For any further assistance regarding any aspect of your request, you have the right to contact the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at [Christopher.A.Julka@navy.mil](mailto:Christopher.A.Julka@navy.mil) or (703) 697-0031. Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-01, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Any questions concerning this matter should be directed to Ms. Sarah Ann Moore who may be contacted at [sarah.moore@navy.mil](mailto:sarah.moore@navy.mil) or 619-524-5727.

Sincerely,



KIMBERLY A. OSTROWSKI  
Director